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UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte WILLIAM J. VROON

Appeal 2008-3618
Application 10/761,013¹
Technology Center 3700

Decided: November 25, 2008

Before TONI R. SCHEINER, DONALD E. ADAMS, and JEFFREY N.
FREDMAN, *Administrative Patent Judges*.

SCHEINER, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the final rejection of claims directed to a stackable horizontal dispensing container. The claims stand rejected as obvious over the prior art. We have jurisdiction under 35 U.S.C. § 6(b). We affirm-in-part.

¹ Application for patent filed January 20, 2004. The real party in interest is the Bradford Company of Holland, Michigan.

STATEMENT OF THE CASE

“This invention relates generally to shipping containers used to ship products, and more particularly, to a lightweight, stackable container which may be accessed from the side on an assembly line” (Spec. 1: 3-5).

Claims 1-4, 6, 9, 10, 12, 15-17, 19, 24, 25, 27, 36, 37, and 45-62 are pending and on appeal. Claims 5, 13, and 18 are also pending, but have been withdrawn from consideration. Claims 7, 8, 11, 14, 20-23, 26, 28-35, and 38-44 have been canceled.

Claims 1, 2, 6, 16, 36, and 51 are representative of the subject matter on appeal:

1. A stackable horizontal dispensing container comprising:
 - a pallet base;
 - a pallet cover;
 - a three sided sleeve being made of corrugated plastic having vertically oriented corrugations, the sleeve extending between the pallet base and the pallet cover, the sleeve, pallet base and pallet cover defining an interior of the horizontal dispensing container;
 - fasteners extending through a portion of the sleeve to secure the sleeve to the pallet base; and
 - a rectangular frame having an open interior secured to opposed sides of the sleeve such that the rectangular frame defines an opening on a fourth side of the horizontal dispensing container.
2. The horizontal dispensing container of claim 1 wherein the sleeve is made of one piece of material.
6. The horizontal dispensing container of [claim 1 further comprising dunnage inside the interior of the horizontal dispensing container] wherein the dunnage comprises pouches.

16. A stackable horizontal dispensing container comprising:
a pallet base;
a three sided sleeve made of corrugated plastic having vertically extending corrugations defining a plurality of flutes, the sleeve being secured to the pallet base with fasteners extending through the flutes of the sleeve; and
a frame having an open interior secured to opposing sides of the sleeve, the frame defining an opening on a fourth side of the horizontal dispensing container, whereby the container provides horizontal access to product residing in the interior of the container.
36. A stackable horizontal dispensing container comprising:
a pallet base having a lip extending upwardly from a body of the pallet base;
a pallet cover having a lip extending downwardly from a body of the pallet cover;
a three sided sleeve extending between the pallet base and the pallet cover, at least two sides of said sleeve being inside said lips of said pallet base and pallet cover;
a rectangular frame secured to opposed sides of the sleeve such that the rectangular frame defines an opening on a fourth side of the horizontal dispensing container.
51. A stackable horizontal dispensing container comprising:
a pallet base;
a sleeve made at least partially of corrugated plastic wherein the corrugations extend vertically;
a brace extending between opposed sides of the sleeve;
fasteners extending through a portion of the sleeve and the brace for securing the pallet base, the sleeve and the brace together;
a rectangular frame having an open interior secured to opposed sides of the sleeve such that the rectangular frame defines an opening on a side of the horizontal dispensing container.

The Examiner rejected the claims as follows:

1. Claims 1, 3, 4, 9, 10, 12, 15, 16, 17, 24, 25, 27, 45-49, 51-53, 55-58, and 60-62 under 35 U.S.C. § 103(a) as unpatentable over Slager,² Francis, Jr.,³ Silberman,⁴ and Anderson.⁵
2. Claim 2 under 35 U.S.C. § 103(a) as unpatentable over Slager, Francis Jr., Silberman, Anderson, and Budowski.⁶
3. Claims 6, 19, 50, 54, and 59 under 35 U.S.C. § 103(a) as unpatentable over Slager, Francis Jr., Silberman, Anderson, and Bazany.⁷
4. Claims 36 and 37 under 35 U.S.C. § 103(a) as unpatentable over Slager and Francis, Jr.

THE FIRST OBVIOUSNESS REJECTION

The Issue on Appeal

The Examiner concluded that the container of claims 1, 3, 4, 9, 10, 12, 15, 16, 17, 24, 25, 27, 45-49, 51-53, 55-58, and 60-62 would have been obvious over Slager's three-sided dispensing container in view of the disclosures of Francis, Jr., Silberman, and Anderson.

Specifically, the Examiner concluded that it would have been obvious for one skilled in the art to replace the injection molded plastic side walls of Slager's three-sided container with the corrugated plastic side walls disclosed by Francis, Jr.; to incorporate "fasteners extending through . . .

² U.S. Patent 5,725,118 to Slager et al., issued March 10, 1998.

³ U.S. Patent 4,828,132 to Francis, Jr. et al., issued May 9, 1989.

⁴ U.S. Patent 1,163,696 to Silberman, issued December 14, 1915.

⁵ U.S. Patent 4,172,623 to Anderson, issued October 30, 1979.

⁶ U.S. Patent 6,827,231 B2 to Budowski et al., issued December 7, 2004.

⁷ U.S. Patent 6,540,096 B1 to Bazany et al., issued April 1, 2003.

[Slager's] pallet base . . . and sleeve" (Ans. 5) as taught by Silberman; and to incorporate a frame as disclosed by Anderson in the container (*id.* at 6).

Appellant contends that "there is no teaching, suggestion or inference of modifying" Slager's container "to incorporate corrugated plastic panels in place of injection molded side walls . . . to incorporate fasteners extending through the side walls to secure the pallet base to the side walls . . . [or] to incorporate a frame defining a horizontal opening of the container" (App. Br. 13).

In view of these conflicting positions, the issue raised by this rejection is: Would a three-sided dispensing container with corrugated side walls, fasteners securing the side walls to the base, and a framed horizontal opening have been obvious to one skilled in the art, given the disclosures of Slager, Francis, Jr., Silberman, and Anderson?

Findings of Fact

FF1 Representative claim 1 is directed to a stackable, horizontally accessible dispensing container comprising a pallet base, a pallet cover, a three sided sleeve extending between the pallet base and cover made of vertically oriented corrugated plastic, fasteners extending through a portion of the sleeve to secure the sleeve to the base, and a rectangular frame secured to opposing sides of the sleeve defining an opening on the fourth side of the container.

FF2 Representative claim 16 is similar to claim 1, and additionally requires that the fasteners extend through the flutes of the corrugated plastic sleeve.

FF3 Representative claim 51 is directed to a stackable, horizontally accessible dispensing container comprising a pallet base, a corrugated plastic sleeve with vertically extending corrugations, a brace extending between opposed sides of the sleeve, fasteners extending through a portion of the sleeve and the brace to secure the pallet base, the sleeve, and the brace together, and a rectangular frame secured to opposing sides of the sleeve defining an opening on a side of the container.

FF4 According to the Specification, a three sided sleeve may be formed by folding a piece of plastic into a three sided sleeve, or “by joining together multiple pieces of plastic” (Spec. 7: 8-14).

Slager

FF5 Slager describes a stackable container body with a rigid base, rigid side walls, and a rigid top. The container can be reversibly assembled in three configurations: one with three rigid side walls, a fixed top, and one open side through which product bins are horizontally accessible; one with two rigid opposing sidewalls, a fixed top, and two open sides; and one with four rigid sidewalls which may be opened and accessed vertically (Slager, col. 2, ll. 43-46; col. 3, ll. 10-16; col. 4, ll. 32-43; col. 7, ll. 28-41 and 63-64).

FF6 The three-sided configuration of Slager’s container is illustrated in Figure 3, reproduced immediately below:

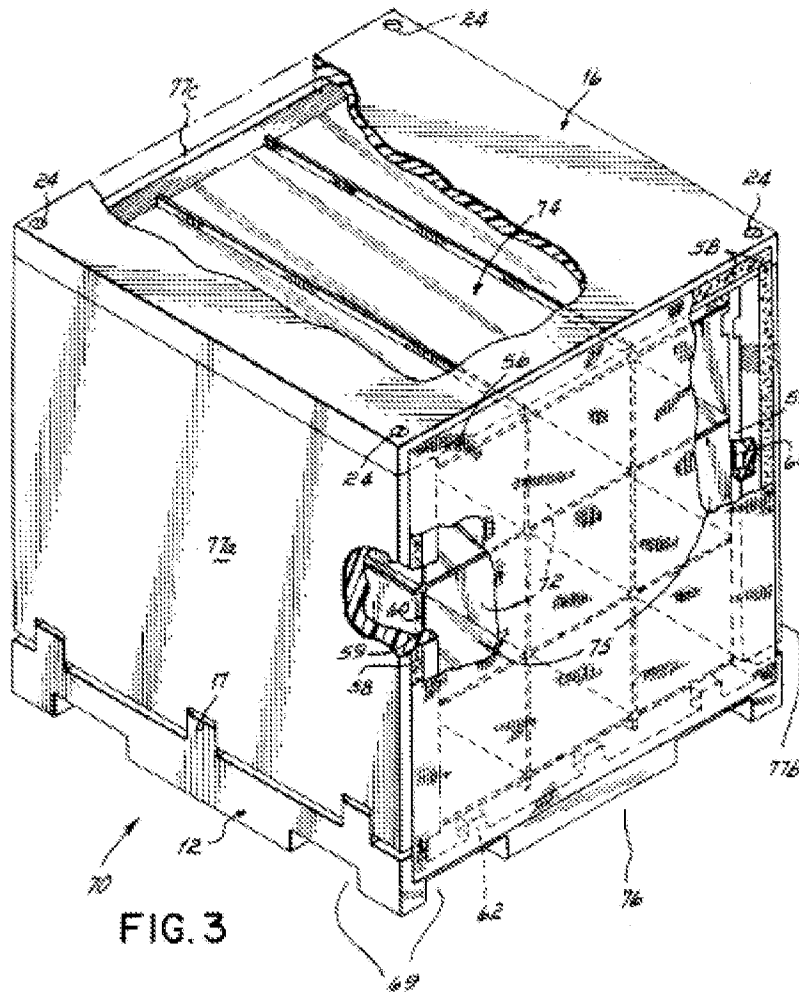


Figure 3 of Slager is a perspective view of the three sided, horizontally accessible container 70. Side walls 77a, 77b, and 77c form the three sides of the container.

FF7 Opposing side walls of Slager's container have wrap-around segments with lateral edges 59 which laterally contain the product bins and prevent them from shifting in the direction of the open side (Slager, col. 6, l. 63 to col. 7, l. 1; and Fig. 3). The wrap-around segments form a partial frame around the horizontal side opening.

FF8 “The rigid side walls . . . are coupled to the base **12**, such as with hinge structures **17** and extend vertically upward from the base to form closed sides of the container body” (Slager, col. 4, ll. 35-38).

FF9 Adjacent side walls may be secured together with latching structures (Slager, col. 7, ll. 38-41).

FF10 The rigid side walls are “formed of plastic such as an injection molded plastic. Therefore container **10** is very lightweight compared to steel racks” (Slager, col. 6, ll. 32-35).

FF11 To stabilize the two or three sided configuration of Slager’s container, removable cover **16** can be “secured to the container body, such as by bolts **24** which extend through appropriate openings **25** in the cover **16** . . . the bolts extend into openings **26** in the side walls which align with the openings **25** in the cover” (Slager, col. 6, ll. 51-57). The side walls and bolts are designed to be removable, so that the container can be converted again and again to any of the three configurations, as needed (*see* Slager, col. 7, ll. 1-64).

Francis, Jr.

FF12 Francis, Jr. describes “rigid shipping containers which are durable, weather resistant, light weight and easy to use and reuse” (Francis, Jr., col. 1, ll. 64-66).

FF13 The side walls of Francis, Jr.’s shipping containers are double-walled “rigid durable panels compris[ing] corrugated plastic board” (Francis, Jr., col. 3, ll. 5-6). The corrugations of the outer wall panels are vertically oriented “for resistance against the walls bowing in directions along the width and length of the container,” while the corrugations of the inner wall

panels are horizontally oriented “for resistance against the walls bowing in a direction along the height of the container” (Francis, Jr., col. 3, ll. 17-25).

Silberman

FF14 Silberman discloses a covered four-sided “collapsible metal box having great strength which can be readily set up and taken apart or collapsed” (Silberman, col. 1, ll. 13-15).

FF15 The sides of the box have hooked overturned interlocking edges that telescope into one another, forming vertical channels at the corners of the box (Silberman, col. 1, ll. 42-56). Rods or bars “passing through the channels formed in the overturned edges of the sides and the corner pieces of the lids bind all of the parts together and reinforce the box . . . , rendering the same strong and rigid” (Silberman, col. 2, ll. 66-71).

FF16 Silberman’s box, and the rods that fasten it together, are illustrated in Figures 1 and 8, reproduced below:

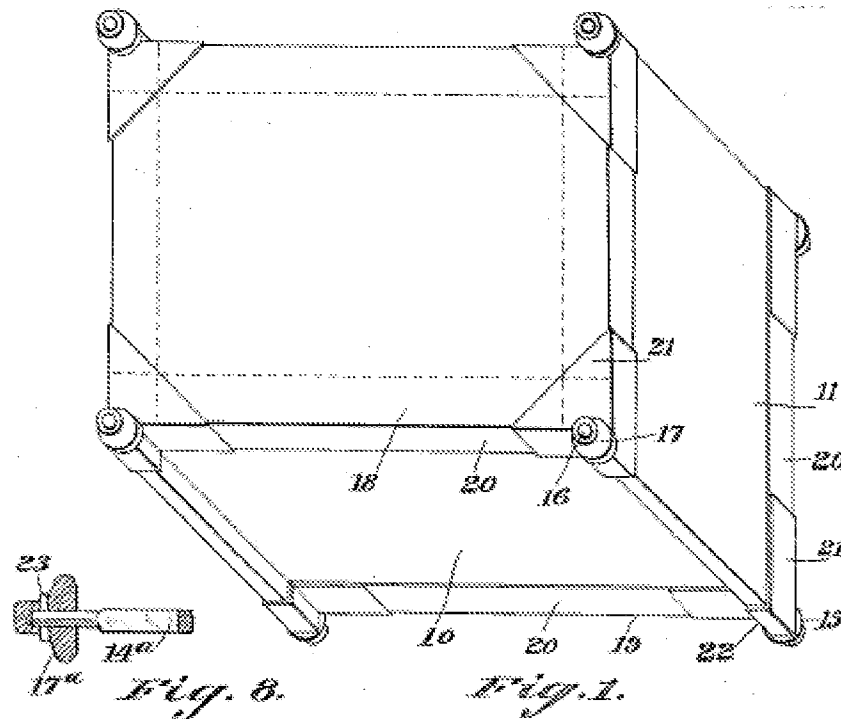


Figure 1 is a perspective view of Silberman's box. Figure 8 is a fragmental detail sectional view of the head of one of the corner bars or rods, which passes through the bottom lid, one of the corner channels, and the top lid, to fasten the parts of the box together (Silberman, col. 1, ll. 26-41).

Anderson

FF17 Anderson describes a cabinet with a horizontal opening, where the horizontal opening is reinforced and stabilized with a rectangular frame (Anderson, col. 1, ll. 40-61).

Principles of Law

The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) evidence of secondary factors, also known as objective indicia of nonobviousness, if any. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

"The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents." *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). It is appropriate "to look to interrelated teachings of multiple patents; . . . demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art . . . to determine whether there was an apparent reason to combine the known elements in the fashion claimed" (*id.* at 1740-

41). *See KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739 (2007)

Moreover, “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results” (*id.* at 1739). Finally, an “[e]xpress suggestion to substitute one equivalent for another need not be present to render such substitution obvious.” *In re Fout*, 675 F.2d 297, 301 (CCPA 1982).

Analysis of the First Obviousness Rejection

According to the Examiner, Slager describes “a stackable horizontal dispensing container with a pallet base (12), a pallet cover (16 . . .) and a three sided sleeve that is removably secured to the base and the cover” (Ans. 4), as well as “a horizontal brace, the lip (22) attached to the pallet cover” (*id.* at 6). The Examiner finds that Slager discloses all of the elements of the claimed container, except for

- “the sleeve being made of corrugated plastic material with vertically oriented corrugations” (*id.* at 5);
- “fasteners extending through the pallet base, pallet cover and sleeve” (*id.*); and
- “a rectangular frame with an open interior” (*id.*).

The Examiner concluded that it would have been obvious for one skilled in the art to have substituted vertically oriented corrugated plastic for Slager’s plastic sleeve because Francis, Jr. teaches that “corrugated material provides increased resistance to bending” (*id.*). The Examiner further concluded that it would have been obvious to incorporate “fasteners extending through . . . Slager’s pallet base cover and sleeve” as taught by Silberman “to secure the parts to form the container . . . and make it strong

and rigid” (*id.*). Finally, the Examiner concluded that it would have been obvious to incorporate “a frame as disclosed by Anderson in the container disclosed by Slager to provide rigidity to the container” (*id.* at 6).

Claims 1, 3, 4, 9, 10, 12, 15, 46-49, 51-53, 55, and 62

We find no error in the Examiner’s conclusion that the invention of claims 1, 3, 4, 9, 10, 12, 15, 46-49, 51-53, 55, and 62 would have been obvious over the cited prior art, for the reasons articulated by the Examiner.

With respect to the Examiner’s conclusion that it would have been obvious to substitute Francis, Jr.’s corrugated plastic board for Slager’s injection molded plastic sidewalls, Appellant argues that Slager “fails to teach a three sided sleeve at all, let alone one made of corrugated plastic material with vertically oriented corrugations” (App. Br. 7), and “there is no teaching, suggestion or inference of modifying the *Slager et al.* container to incorporate corrugated plastic panels in place of the injection molded side walls” (*id.* at 13).

This argument is not persuasive. First, the “three sided sleeve” of the claimed container can be “made of multiple pieces joined together” (FF4), and Slager describes a container with a three sided sleeve made up of three panels joined together (FF5, 9). Therefore, we agree with the Examiner that Slager describes a container with a three sided sleeve.

Second, the lack of an explicit teaching or suggestion in the cited art is not the end of the obviousness analysis. The Supreme Court has stressed that “[t]he obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit

content of issued patents.” *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). It is appropriate “to look to interrelated teachings of multiple patents; . . . demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed” (*id.* at 1740-41). Here, we agree with the Examiner that Francis, Jr.’s teaching that corrugated plastic board is lightweight, strong, and resists bowing (FF12, 13) would have prompted one of ordinary skill in the art to substitute sidewalls made of corrugated plastic board for lightweight injection molded plastic sidewalls in order to provide increased resistance to bowing.

With respect to the Examiner’s conclusion that it would have been obvious to extend fasteners from the pallet base through a portion of the sleeve, Appellant argues that Slager already has hinges securing the sidewalls to the base, and “incorporat[ing] fasteners extending through a portion of the sidewalls of the *Slager et al.* container . . . would destroy one purpose of the *Slager et al.* container, to be able to remove the sidewalls” (App. Br. 9).

Appellant’s argument is not persuasive. The fact that Slager shows that the container can be made more rigid and stable by reversibly securing the top of the to the side walls using bolts passing through the side walls (FF11) shows two things: securing the sidewalls of Slager’s container to the pallet base by means of removable fasteners (e.g., bolts) extending from the base through the side walls would provide a rigid, stable structure; and the removable fasteners would not interfere with retrofitting the container by

removing or adding sidewalls as needed. Therefore, we agree with the Examiner that it would have been obvious for one skilled in the art to secure the sidewalls of Slager's container to the base using fasteners (e.g, bolts like the ones used to secure the top of Slager's container or rods like the ones passing through the sidewalls of Silberman's container) instead of hinges, to increase the rigidity of Slager's three-sided container.

With respect to the Examiner's conclusion that it would have been obvious to incorporate a frame around the open side of Slager's three-sided container, Appellant contends that "there would have been no need to add a frame to the *Slager at al.* container" because it already has wrap around side walls that prevent the product grids from shifting laterally within the container (App. Br. 11).

This argument is not persuasive. Again, as pointed out by the Examiner, adding a frame of the type taught by Anderson to the open side of Slager's container would reinforce and stabilize the opening, as well as preventing the product grids from shifting in the container (FF7, 17).

Claims 16, 17, 24, 25, 27, 45, and 56-62

With respect to independent claims 16, 56, and 61 (and dependent claims 17, 24, 25, 27, 45, 57-60, and 62), Appellant contends that none of the references discloses "fasteners extending through flutes of a three sided sleeve made of corrugated plastic" (App. Br. 9).

This limitation was not addressed in the Examiner's rejection of the claims, and we agree with Appellant that the Examiner's subsequent assertion that a "fastener extending though the sleeve would have to extend through flutes of the sleeve in some manner" (Ans. 10) is inadequate to

establish that it would have been obvious to modify Slager's container in this manner, especially as both the bolts in Slager's container, and the rods in Silberman's container pass through holes or channels specifically configured to receive them (FF 11 and 15).

Claims 51-55

With respect to independent claim 51 (and dependent claims 52-55), the Examiner contends that Slager's "lip (22) attached to the pallet cover" is a horizontal brace" (Ans. 6)

Appellant contends that none of the cited references discloses "fasteners extending through a portion of a three sided sleeve and through a brace extending between opposed sides of the sleeve to secure the pallet base, sleeve and brace together" (App. Br. 9).

We agree with Appellant that lip **22** of the removable top of Slager's container **16** is not a horizontal brace, and would not have prompted one of skill in the art to have added a horizontal brace to the pallet base to receive fasteners extending from the base through the sidewalls.

Conclusion (First Rejection)

A three-sided dispensing container with corrugated side walls, fasteners securing the side walls to the base, and a framed horizontal opening would have been obvious to one skilled in the art, given the disclosures of Slager, Francis, Jr., Silberman, and Anderson. Therefore, we AFFIRM the Examiner's rejection of the claims over Slager, Francis, Jr., Silberman, and Anderson with respect to claims 1, 3, 4, 9, 10, 12, 15, 46-49, 51-53, 55, and 62.

However, the art relied on by the Examiner does not teach or suggest fasteners extending from the base of the container through the flutes of corrugated plastic sidewalls, or fasteners passing through the base, a horizontal brace, and the sidewalls. Therefore, we REVERSE the rejection with respect to claims 16, 17, 24, 25, 27, 45, 51-58, 60, and 61.

THE SECOND OBVIOUSNESS REJECTION

The Issue on Appeal

The Examiner rejected claim 2 as obvious over Slager in view of the disclosures of Francis, Jr., Silberman, Anderson, and Budowski.

The Examiner concluded that “it would have been obvious to one of ordinary skill in the art . . . to have incorporated the use of a sleeve made of one piece of material as disclosed by Budowski et al in the container disclosed by Slager . . . to provide a tighter, more stable container and simplify assembly” (Ans. 7).

Appellant contends that “incorporat[ing] a one piece sleeve into the *Slager et al.* container . . . would destroy one purpose of the *Slager et al.* container, the ability to retrofit the *Slager et al.* container to a shipping container having four sidewalls and vertical access through a top opening” (App. Br. 15).

The issue raised by the second rejection is as follows: Would it have been obvious for one skilled in the art to have fabricated the sidewalls of Slager’s three-sided container from one piece of material?

Additional Findings of Fact

FF18 Claim 2 depends from claim 1 and specifies that the three-sided sleeve is made of one piece of material.

FF19 Budowski describes a three-sided minivan box liner with continuous sidewalls inserted into channels in molded top and bottom plates (Budowski, Abstract).

Analysis of the Second Obviousness Rejection

We agree with Appellant that one skilled in the art would not have been prompted to make this particular modification - substituting a single three-sided sleeve for Slager's removable individual side walls - as it would interfere with a significant advantage of the Slager container: "the ability to retrofit the . . . container" (App. Br. 15).

Conclusion (Second Rejection)

It would not have been obvious for one skilled in the art to have fabricated the sidewalls of Slager's three-sided container from one piece of material. Therefore, we REVERSE the rejection of claim 2 under 35 U.S.C. § 103(a) as unpatentable over Slager, Francis Jr., Silberman, Anderson, and Budowski.

THE THIRD OBVIOUSNESS REJECTION

The Issue on Appeal

The Examiner rejected claims 6, 19, 50, 54, and 59 as obvious over Slager in view of the disclosures of Francis, Jr., Silberman, Anderson, and Bazany.

The Examiner concluded that “it would have been obvious to one of ordinary skill in the art . . . to have incorporated the use of pouches for dunnage as disclosed by Bazany in the container disclosed by Slager as modified by Francis Jr., Silberman and Anderson because it is known in the art to use pouches for transporting items such as auto parts in this type of container” (Ans. 7-8).

Appellant contends that Slager’s container “is specifically designed to hold in product receiving grids . . . To modify the *Slager et al.* container to replace these grids with pockets would destroy the purpose of the *Slager et al.* container, the ability to retrofit the *Slager et al.* container” (App. Br. 17).

The issue raised by the third rejection is as follows: Would it have been obvious for one skilled in the art to have modified Slager’s container to hold dunnage pouches rather than product grids?

Additional Findings of Fact

FF20 Claim 19 depends indirectly from claim 16, and claim 59 depends from claim 56, and therefore both claims require that the fasteners extend through the flutes of a corrugated sleeve.

FF21 Bazany teaches that dunnage pouches are conventionally substituted for product grids in reusable horizontally accessible shipping and dispensing containers (Bazany, col. 3, l. 50 to col. 4, l. 65).

Analysis of the Third Obviousness Rejection

Claims 19 and 59

Claims 19 and 59 require fasteners extending through the flutes of corrugated side panels, a limitation we have already determined would not have been obvious over the cited prior art (FF20).

Claims 6, 50, and 54

The substitution of dunnage pouches for product grids in Slager's dispensing container would have been obvious to one skilled in the art because Bazany teaches that dunnage pouches are conventional alternatives to product grids in shipping and dispensing containers. No express suggestion to substitute one equivalent for another is needed to make the substitution obvious.

Moreover, the substitution would not have destroyed a purpose of Slager's container – the container would still provide compartments for product, would still be horizontally accessible, and would still be retrofittable.

Conclusion (Third Rejection)

It would have been obvious for one skilled in the art to modify Slager's container to hold dunnage pouches rather than product grids. Therefore, we AFFIRM the Examiner's rejection of the claims over Slager, Francis Jr., Silberman, Anderson, and Bazany with respect to claims 6, 50, and 54.

However, we REVERSE the rejection with respect to claims 19 and 59 because these claims contain an additional limitation we have already determined would not have been obvious over the cited art.

THE FOURTH OBVIOUSNESS REJECTION

The Issue on Appeal

The Examiner rejected claims 36 and 37 as obvious over Slager and Francis, Jr.

Appellant makes no particular arguments with respect to claims 36 and 37, except to assert that “the examiner has failed to make a *prima facie* case of obviousness” and the combined references “do not anticipate or meet all of the limitations of claims 36 and 37” (App. Br. 22).

The issue raised by the fourth rejection is: Has Appellant shown that the Examiner erred in concluding that the invention of claims 36 and 37 would have been obvious over the cited art?

Analysis of the Fourth Obviousness Rejection

Appellant’s bare assertion that the Examiner has not made out a *prima facie* case of obviousness or anticipation for claims 36 and 37 is insufficient to establish that the Examiner erred in concluding that the invention of claims 36 and 37 would have been obvious over the art relied on.

Conclusion (Fourth Rejection)

Appellant has not shown that the Examiner erred in concluding that the invention of claims 36 and 37 would have been obvious over the Slager and Francis, Jr. Therefore, we AFFIRM the Examiner’s rejection of claims 36 and 37 over Slager, and Francis Jr.

SUMMARY

1. The rejection of claims 1, 3, 4, 9, 10, 12, 15, 16, 17, 24, 25, 27, 45-49, 51-53, 55-58, and 60-62 under 35 U.S.C. § 103(a) as unpatentable over Slager, Francis, Jr., Silberman, and Anderson is AFFIRMED with respect to claims 1, 3, 4, 9, 10, 12, 15, 46-49, 51-53, 55, and 62, but REVERSED with respect to claims 16, 17, 24, 25, 27, 45, 51-58, 60, and 61.

2. The rejection of claim 2 under 35 U.S.C. § 103(a) as unpatentable over Slager, Francis Jr., Silberman, Anderson, and Budowski is REVERSED.

3. The rejection of claims 6, 19, 50, 54, and 59 under 35 U.S.C. § 103(a) as unpatentable over Slager, Francis Jr., Silberman, Anderson, and Bazany is AFFIRMED with respect to claims 6, 50, and 54, but REVERSED with respect to claims 19 and 59.

4. The rejection of claims 36 and 37 under 35 U.S.C. § 103(a) as unpatentable over Slager and Francis, Jr. is AFFIRMED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(2006).

AFFIRMED-IN-PART

dm

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